

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN O. MYERS,

Plaintiff,

-against-

07 CIV 4708 (RJH) (GWG)

HSBC INVESTMENTS (USA) INC. and HSBC
SECURITIES (USA) INC.,

**RULE 37(a)(i) CERTIFICATION
OF GOOD FAITH**

Defendants.

M. CHRISTINE CARTY, an attorney admitted to practice before this Court, affirms and certifies as follows:

1. I am a partner in the law firm of Schnader Harrison Segal & Lewis LLP, attorneys for Defendants HSBC INVESTMENTS (USA) INC. and HSBC SECURITIES (USA) INC. (collectively referred to as "HSBC" or "Defendants"). As such, I am fully familiar with all prior pleadings and proceedings in this action.

2. I submit this Certification of Good Faith pursuant to Fed. R. Civ. Proc. 37(a)(i), in support of Defendants' Motion to Compel Depositions of Blair C. Fensterstock ("Fensterstock") and Brooke F. Haley ("Haley") to appear for and produce documents at deposition.

3. As set forth in the Affirmation of M. Christine Carty in Support of Defendants' Motion to Compel ("Carty Affirmation"), Defendants noticed the deposition of Fensterstock on February 8, 2008 and of Haley on February 21, 2008.

4. Plaintiff's counsel Jeanne M. Valentine sent an e-mail to me on February 9, 2008, objecting to the production of Fensterstock for deposition.

5. I met with Plaintiff's counsel on February 12, 2008 in order to resolve discovery disputes and schedule depositions. At that meeting, Fensterstock refused to appear for a deposition.

6. I sent a letter to Plaintiff's counsel on February 13, 2008, advising Plaintiff of Defendants' intent to seek an order compelling the deposition of Fensterstock. I received no response to my letter.

7. I sent a letter to the Court on February 15, 2008, requesting that a conference be scheduled, in part to address Plaintiff's refusal to produce Fensterstock for deposition.

8. Plaintiff's counsel wrote to the Court on February 19, 2008, objecting to Defendants' request to depose Fensterstock.

9. I wrote to the Court on February 21 requesting permission to depose Haley and, on the same day, served a deposition notice on Haley.

10. I wrote to the Court on February 29 and March 19, 2008, regarding Defendants' request to depose Fensterstock and Haley.

11. Plaintiff's counsel wrote to the Court on February 22 and March 11, 2008, objecting to the depositions of Fensterstock and Haley.

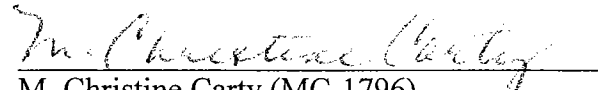
12. The parties appeared before the Court for a discovery conference on March 26, 2008. At the March 26, 2008 discovery conference, Fensterstock again opposed the depositions absent an order from the Court compelling their appearance.

13. The Court thereafter instructed Defendants to file a Motion to Compel Fensterstock and Haley to appear for deposition.

14. Defendants' counsel expended considerable good faith efforts to resolve the issue of the depositions of Fensterstock and Haley prior to filing this motion. Such efforts have included in person conversations with Plaintiff's counsel, as well as the exchange of numerous letters and e-mail.

15. Despite these efforts, we have been unable to resolve the disputes over the depositions of Fensterstock and Haley.

Dated: New York, New York
April 24, 2008


M. Christine Carty (MC-1796)